WP(C) 856/2007

BEFORE

HON'BLE JUSTICE RANJAN GOGOI

The petitioner is aggrieved by an interim order dated 11.1.2007 passed by the Assam Board of Revenue by which the petitioner, who is the Respondent No.2 in the appeal before the learned Board of Revenue i.e. R.A. No.28 of 1996, has been virtually injuncted from carrying out any construction over the land which is the subject matter of dispute before the learned Board of Revenue in the appeal pending before it. The dispute before the learned Board of Revenue, it may be noticed, is in respect of grant of mutation of the land in question.

Mr. K. K. Mahanta, learned counsel for the petitioner, has been vehement in his contentions that being an appellate Revenue authority the learned Board of Revenue had exceeded its jurisdiction in passing an order preempting the petitioner from raising any construction on the land in dispute. According to Sri Mahanta, such an order can only be passed by the Civil Court, upon due satisfaction, and not by the Board of Revenue.

The Court has noticed that the order dated 11.1.2007 is merely an interim order and by the said order the petitioner has been allowed to file his objections against the prayer for injunction as made by the respondent No.3 herein (appellant before the Board). The Court is also of the view that it is a fundamental aspect of our jurisprudence that the scope and ambit of the powers of quasi judicial authorities, particularly the final appellate authority, as in the present case, in the first instance, should be decided by the concerned authority itself. As the order dated 11.1.2007 is merely an interim order giving liberty to the petitioner to file his objections, I am of the view that the objections taken before the writ Court should be placed before the Board of Revenue for its due consideration. Thereafter, the learned Board of Revenue will pass orders as may be considered appropriate in the matter either affirming the order dated 11.1.2007 or by causing suitable modification thereof.

In view of the peculiar facts and circumstances of the case, I am of the view that at the Board of Revenue should be directed to pass its further orders in the matter, in terms of the present directions, within a period of four weeks from the date of receipt of a copy of this order or a certified copy thereof. If the calendar of the Board so permits the Board may also dispose of the appeal on merits within the aforesaid period of four weeks.

This will dispose of the writ petition.